



Delegated decision report

Committee

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE FRIDAY, 10 FEBRUARY 2012

Title

DISPOSAL OF RYDE BUSINESS PARK EXTENSION LAND

Report to

DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND THE ENVIRONMENT.

EXECUTIVE SUMMARY

1. This paper seeks approval for the council to negotiate with Liz Earle Beauty Co. Limited as a special purchaser for the whole of its land holding adjacent to Ryde Business Park.
2. Liz Earle Beauty Co. Limited has immediate expansion plans for the site that will result in an increase in the supply of jobs to the island and needs to progress these plans whilst it has capital resources available to do so.
3. Any final terms of sale agreed with Liz Earle Beauty Co. Limited as a special purchaser would be subject to a further Cabinet report to confirm that the council is achieving best consideration from the disposal.

CONFIDENTIAL / EXEMPT ITEMS

4. Appendix 2 is confidential and is exempt by virtue of Paragraph 3 of Part 1 of Section 12A of the Local Government Act 1972 because it 'relates to financial or business affairs of any particular person'. In this case it comprises the case, confidentially prepared by the Liz Earle Beauty Co. Limited, setting out why it should be treated as a special purchaser. If this was made publicly available it may prejudice the ongoing position of Liz Earle Beauty Co. Limited in delivering its expansion plans.

BACKGROUND

5. The council owns an area of land of some 14.63 hectares adjacent to the existing business park in Ryde, as shown in Appendix 1. The land is allocated for employment purposes in the Island Plan Core Strategy.
6. An approach has been made to the council by Liz Earle Beauty Co. Limited which wishes to acquire the whole of the site in order to expand its business on the Island over the next ten years. The company is keen to acquire the site quickly whilst the capital funds necessary for it to deliver the first phase of its expansion are available.

7. It would be normal practice for the council to market the site for disposal to ensure that it receives the best consideration for it through a competitive process. Ultimately the value of the site will depend on the price that possible purchasers are willing to pay for it; this in itself will be determined by prevailing market conditions at the time of marketing.
8. The council does however make provision for dealing with a single bidder for a site where that bidder falls within the definition of a 'special purchaser' as defined by the Royal Institution of Chartered Surveyors (RICS). "A purchaser to whom a particular asset has a special value because of the advantages arising from its ownership that would not be available to general purchasers in the market."
9. When an organisation that meets this definition of special purchaser wishes to acquire a council asset it is the council's practice to obtain two independent valuations of the asset. The cost of these valuations being met by the prospective special purchaser. This helps the council to ensure that it would be receiving the 'best consideration' for the site should the special purchaser be willing to pay the value of the site as assessed by the independent valuations.
10. The best consideration the council may receive for a site does not necessarily have to be only defined in monetary terms. The council may wish to achieve some social, economic or other benefits from the disposal of a site and could seek to impose restrictive covenants on a purchaser to ensure that such benefits are achieved. The overall value of these benefits can however be based only on a clear understanding of the financial value of the site as determined by a proper valuation.
11. Liz Earle Beauty Co. Limited falls within the RICS definition of a special purchaser for the reasons set out in the confidential Appendix 2 to this paper. It has asked that the council agree to treat it as a special purchaser for the site so it can proceed with funding the required valuations and the detailed design of the development it wishes to undertake.

STRATEGIC CONTEXT

12. The sale and subsequent development of the land adjacent to Ryde Business Park will make an important contribution to the "thriving island" theme of the Sustainable Community Strategy (Eco-Island). It will also help to underpin the delivery of the council's corporate priority of "regeneration and the economy".
13. One of the council's key principles in delivering its corporate plan (2011 to 2013) is to, "actively seek to sell or dispose of assets that are surplus to requirements". The disposal of this site would be in accordance with this principle.

CONSULTATION

14. No consultation has been possible over this proposal owing to the commercial confidentiality of the approach from Liz Earle Beauty Co. Limited. There will however be an opportunity for consultation on any terms of agreement for sale should they be achieved following the valuations of the site.

FINANCIAL / BUDGET IMPLICATIONS

15. There are no direct financial or budget implications arising from the recommendations in this paper. The independent valuations of the site are to be funded by Liz Earle Beauty Co. Limited. If terms are agreed for the sale of the site to Liz Earle Beauty Co. Limited as a special purchaser then the council may receive a capital receipt or other form of best consideration from the disposal, based on the valuation of the site.

CARBON EMISSIONS

16. There are no direct implications for the council's Carbon Management Plan arising from the recommendations in this paper. If the land is developed as intended there would be an increase in the Island's overall carbon footprint. There is however no reason to believe that this would be greater than for any other development on the site and given the approach taken to corporate social responsibility by Liz Earle Beauty Co. Limited it is likely to be less.

LEGAL IMPLICATIONS

17. The council has the power to dispose of property under section 123 of the Local Government Act 1972 which requires it to achieve 'best consideration' in any disposal.
18. Best consideration does not necessarily mean the highest price achievable. It can also be obtained from other additional benefits generated by and for the local community from the disposal provided that the council observes its fiduciary responsibilities and protects the interests of the community and itself in the transaction.

EQUALITY AND DIVERSITY

19. There are no direct implications for the council's duties under the terms of the Equality Act 2010 arising from the recommendations in this paper. There are no opportunities for it to eliminate unlawful discrimination, promote equal opportunities between people from different groups and foster good relations between people from different backgrounds arising from the decision to agree to a special purchaser for the land in question.

PROPERTY IMPLICATIONS

20. This is a property based report therefore there are not thought to be any further property implications for consideration.

SECTION 17 CRIME AND DISORDER ACT 1998

21. There are no direct crime and disorder implications arising from the recommendations in this paper. If the land is developed as intended there would be an increase in the supply of jobs on the island which may lead to a future reduction in crimes in the area. There is also likely to be some regeneration of the local area which may also have a positive impact on crime reduction.

OPTIONS

22. The options available to the council are:-

- (i) To agree to Liz Earle Beauty Co. Limited, being treated as a special purchaser for the council owned land adjacent to Ryde Business Park.
- (ii) Not to agree to Liz Earle Beauty Co. Limited being treated as a special purchaser for the council owned land adjacent to Ryde Business Park.
- (iii) To offer the council owned land adjacent to Ryde Business Park for sale on the open market and to undertake an appropriate marketing exercise for the site.
- (iv) To wait until market conditions improve before beginning any process to dispose of the council owned land adjacent to Ryde Business Park.

RISK MANAGEMENT

- 23. If the council does not agree to the proposed special purchaser status for Liz Earle Beauty Co. Limited there is a high risk that the new jobs that would be created by the company in developing the site would not be achieved. The overall economic benefit to the Island that could be achieved through these jobs would also be lost. It is possible that another organisation may seek to develop the site and produce the same level of proposed benefits but there have been no other approaches made for this land; any benefits would therefore be over a much longer term than currently envisaged by Liz Earle Beauty Co. Limited (Appendix 2).
- 24. There is a low risk that the council may receive a higher consideration for the land if it were to offer it for sale on the open market. The valuations of the site that will inform the final sale agreement with Liz Earle Beauty Co. Limited as a special purchaser will ensure the council is fully aware of the site's value in reaching this agreement. As no other approaches have been made for the site it is felt unlikely that a better offer could be achieved through the open market.
- 25. If the site is offered to the open market there is a high risk that Liz Earle Beauty Co. Limited will not be able to proceed on this basis as any marketing exercise would be beyond its intended timescales for expansion.
- 26. Waiting for an improvement in overall land values on the Island may lead to the council receiving a higher capital receipt for the land than it will be likely to receive currently. The risk is in waiting for an upturn in the land values as there can be no certainty when this may come and the loss of potential new jobs to the island with consequent boost in the economy that would follow.
- 27. There remains the risk that even if the council agrees to the special purchaser arrangements it may not be able to agree terms for the sale of the land with Liz Earle Beauty Co. Limited that offers best consideration for the council (and the Island). Any sale would be subject to Liz Earle Beauty Co. Limited also obtaining planning permission for its development plans.

EVALUATION

28. A decision to agree to the proposed special purchaser arrangements with Liz Earle Beauty Co. Limited does not commit the council to the sale of the land to it. It does however give Liz Earle Beauty Co. Limited confidence that the council will work with it to achieve the sale subject to suitable terms being agreed which ensure the council receives best consideration for the site. The final terms of the disposal will need to be confirmed by a further cabinet decision once they have been agreed.
29. One of the many issues the council will need to take into account in reaching any agreement with Liz Earle Beauty Co. Limited is the deliverability of its expansion plans and their likely impact on both the supply of jobs on the Island and the Island's overall economic prosperity. The council will need to be assured that both are deliverable and within reasonable timescales; it may wish to condition the sale to ensure that the development is achieved. Such conditions may reduce the overall capital receipt the council is able to realise from the disposal of the land. A decision on the 'cost' to the council of securing these economic benefits for the Island can only be fully assessed once a valuation for the site has been achieved and Liz Earle Beauty Co. Limited has set out what it is committed to delivering in its expansion plans.
30. Liz Earle Beauty Co. Limited as a special purchaser will be taking over a substantial amount of the allocated employment land in the area, which will restrict future development opportunities of other businesses seeking to expand / relocate in/to Ryde. It is therefore important it is not permitted to land bank a significant part of the site.
31. It is to the council's advantage that a single organisation is seeking to acquire the whole of the site adjacent to Ryde Business Park. The alternative would be for the council to employ a third party to, or directly develop on a speculative basis, each of the possible plots on the site whilst seeking possible occupiers of them. A long term, time consuming process that may also have a very long delivery time and without a clear understanding of likely long term benefits.

RECOMMENDATION

32. That option (i) be adopted and that the council: -

Agree to Liz Earle Beauty Co. Limited, being treated as a special purchaser for the council owned land adjacent to Ryde Business Park.

APPENDICES ATTACHED

33. [APPENDIX 1](#): Site plan showing the council owned land adjacent to Ryde Business Park that may be acquired by Liz Earle Beauty Co. Limited.
34. APPENDIX 2: The case for special purchaser arrangements with Liz Earle Beauty Co. Limited – PROTECT – COMMERCIAL. (Not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (As Amended) because it "relates to financial or business affairs of any particular person" (including the authority holding that information))

BACKGROUND PAPERS

35. None

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JOHN METCALFE
Deputy Director
Economic Development, Tourism and Leisure

COUNCILLOR GEORGE BROWN
Deputy Leader and Cabinet Member
The Economy and the Environment

Decision

Signed

Date
